

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

UNITED STATES OF AMERICA, )  
Plaintiff, )  
vs. )  
JEFFREY SCOTT KEPLER, )  
Defendant. )  
Criminal No. 4:11-cr-017  
MOTION TO DISMISS

Defendant, Jeffrey Scott Kepler, through counsel, moves pursuant to Fed.R.Crim.P. 12(b)(2) to dismiss the indictment against him. In support of this motion, defendant states as follows:

1. Mr. Kepler has been charged with violations of 18 U.S.C. §§ 1347 and 2 (Health Care Fraud), 18 U.S.C. §§ 704(b) and (d) (Stolen Valor) and 18 U.S.C. § 1001(a)(2) (False Statements).

2. On its face, 18 U.S.C. § 704 (count 2) violates Mr. Kepler's First Amendment right of Free Speech.

WHEREFORE, defendant Jeffrey Scott Kepler respectfully requests that the court set this matter for hearing, and, after that hearing, grant this motion and dismiss count 2 of the indictment.

FEDERAL DEFENDER'S OFFICE  
400 Locust Street  
Suite 340, Capital Square  
Des Moines, Iowa 50309-2353  
TELEPHONE: (515) 309-9610  
TELEFAX: (515) 309-9625  
E-MAIL: b.\_john\_burns@fd.org

/s/ B. John Burns  
ATTORNEY FOR DEFENDANT

cc:

Craig Gaumer  
United States Attorney's Office  
  
ATTORNEY FOR PLAINTIFF,  
UNITED STATES OF AMERICA

CERTIFICATE OF SERVICE  
I hereby certify that on April 11, 2011, I electronically  
filed this document with the Clerk of Court using the  
ECF system which will serve it on the appropriate  
parties.

/s/ B. John Burns  
John Burns